

HOUSE BILL 1636  
By Buck

AN ACT to amend Tennessee Code Annotated, Title 4; Title 8; Title 38 and Title 41, relative to the duties of law enforcement officers and the consequences of failing to perform certain duties.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 8, Chapter 8, Part 2, is amended by adding the following new appropriately numbered subsection:

( ) Take or cause to be taken two (2) full sets of fingerprints of each person arrested for the commission of an offense and send one (1) set of such fingerprints to the Tennessee bureau of investigation as provided in Tennessee Code Annotated, Section 38-6-103 and one (1) set to the federal bureau of investigation;

SECTION 2. Tennessee Code Annotated, Title 38, Chapter 3, is amended by adding the following as a new section:

Section\_\_\_\_. It shall be the duty of every law enforcement officer as defined in Tennessee Code Annotated, Section 39-11-106(21) to take or cause to be taken two (2) full sets of fingerprints of each person arrested for the commission of an offense and send one (1) set of such fingerprints to the Tennessee bureau of investigation as provided in Tennessee Code Annotated, Section 38-6-103 and one (1) set to the federal bureau of investigation.

SECTION 3. Tennessee Code Annotated, Title 8, Chapter 4, Part 1, is amended by adding the following as a new section:

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Section\_\_\_\_.

(a)(1) When the comptroller, or department of audit thereof, audits a county sheriff's office or municipal police department as required or authorized by law, the auditor shall make a specific finding as to whether such sheriff's office or police department is in substantial compliance with Sections 1 and 2 of this act requiring that the fingerprints of all person's arrested by that office or department be taken or caused to be taken and transmitted as set out in such sections.

(2) The respective directors of county and municipal audit may, in consultation with the comptroller, establish criteria for determining what is required for a sheriff's office or police department to be in substantial compliance with the fingerprinting requirements of Sections 1 and 2 of this act and how such compliance can best be determined and monitored.

(b) If the auditor determines that a particular sheriff's office or police department is not in substantial compliance with Sections 1 and 2 of this act, such auditor shall document the noncompliance and immediately transmit that portion of the audit to the director of county or municipal audit, whichever is appropriate.

(c) If the director of county or municipal audit is in agreement with the auditor that a particular sheriff's office or police department is in noncompliance with the fingerprinting requirement, such director shall, in consultation with the comptroller, send a letter to the judicial cost accountant for the department of correction who is in charge of reimbursing the noncomplying county or municipality for housing convicted felons pursuant to Tennessee Code Annotated, Section 41-8-106. Such letter shall inform the cost accountant that a particular county's sheriff's office or municipality's police department is in noncompliance with the fingerprinting of arrestees requirement and that no

further reimbursements pursuant to Tennessee Code Annotated, Section 41-8-106, shall be made to that particular county or municipality until the sheriff's office or police department is in compliance. A certified copy of such letter shall be sent to the noncomplying sheriff and the county executive of such sheriff's county or the noncomplying chief of police and the mayor of the chief's municipality. Upon receiving such letter the cost accountant shall process no further reimbursement claims pursuant to Tennessee Code Annotated, Section 41-8-106 until receipt of a letter of compliance from the director of county or municipal audit.

(d) Once a sheriff's office or police department has been found in noncompliance with the fingerprinting requirements of Sections 1 and 2 of this act and the letter described in subsection (c) of this section has been sent, the burden shall be on such sheriff or police chief to demonstrate to the director of county or municipal audit that the sheriff's office or police department is in substantial compliance with such requirements. The respective directors may, in consultation with the comptroller, establish criteria for determining what is required for a sheriff's office or police department found to be in noncompliance with such requirements to return to substantial compliance and how such compliance must be proven and monitored.

(e) If the director of county or municipal audit determines that a noncomplying sheriff's office or police department has returned to substantial compliance, it shall send a letter so stating to the cost accountant to whom the letter was sent pursuant to subsection (c) of this section. Upon receiving such letter, the cost accountant shall once again begin processing and paying reimbursement claims pursuant to Tennessee Code Annotated, Section 41-8-106. Provided, however, a county or municipality whose sheriff's office or police

department was in noncompliance with Sections 1 and 2 of this act shall be required to forfeit such reimbursement payments for a period of at least thirty (30) days.

(f) If a sheriff's office or police department is in noncompliance with Sections 1 and 2 of this act for six (6) or more consecutive months, the director of county or municipal audit is authorized to suspend funds paid by the state to a county or municipality other than the reimbursements provided by Tennessee Code Annotated, Section 41-8-106. Such other funds paid by the state to a county or municipality shall also be withheld for the period of time necessary for such sheriff's office or police department to prove substantial compliance with this act.

(g) At least annually the comptroller's office shall send to each county executive, sheriff, mayor and chief of police a notice advising them of the provisions of this act and that reimbursement payments to counties and municipalities made pursuant to Tennessee Code Annotated, Section 41-8-106, and other funds paid to counties and municipalities by the state may be suspended or withheld for failing to substantially comply with the provisions of Sections 1 and 2 of this act requiring the fingerprinting of all persons arrested by such county's sheriff's office or such municipality's police department.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring

it.